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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Expert workshop to review the mandate of the Expert Mechanism on the Rights of Indigenous Peoples

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

In its resolution 30/11, the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to convene a two-day expert workshop open to the participation of States, indigenous peoples and other stakeholders to review the mandate of the Expert Mechanism on the Rights of Indigenous Peoples and to propose recommendations on how it can more effectively promote respect for the United Nations Declaration on the Rights of Indigenous Peoples, including by better assisting Member States to monitor, evaluate and improve the achievement of the ends of the Declaration. The Council also requested OHCHR to prepare a report on the workshop, including the proposals made, to be submitted to the Council at its thirty-second session.

In pursuance of that resolution, OHCHR organized a two-day workshop, held in Geneva on 4 and 5 April 2016. Participants included States, indigenous peoples and other stakeholders. The present report contains a summary of the discussions held and the proposals made at the workshop.

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I. Introduction

1. The Expert Mechanism on the Rights of Indigenous Peoples was established in 2007 by Human Rights Council resolution 6/36, as a subsidiary body of the Council, to provide thematic expertise on the rights of indigenous peoples in the manner and form requested by the Council. The thematic expertise focuses mainly on studies and research-based advice and the Expert Mechanism may submit proposals to the Council for its consideration and approval.

2. In the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples, the Assembly invited the Human Rights Council, taking into account the views of indigenous peoples, to review the mandates of its existing mechanisms, in particular the Expert Mechanism, with a view to modifying and improving the Expert Mechanism so that it could more effectively promote respect for the United Nations Declaration on the Rights of Indigenous Peoples, including by better assisting Member States to monitor, evaluate and improve the achievement of the ends of the Declaration (see Assembly resolution 69/2, para. 28).

3. In September 2015, the Human Rights Council adopted resolution 30/11, in which it requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to convene a two-day expert workshop open to the participation of States, indigenous peoples and other stakeholders, including by inviting the submission of written contributions, to review the mandate of the Expert Mechanism (para. 1). OHCHR accordingly invited States, indigenous peoples and other stakeholders to submit written contributions on the review of the mandate of the Expert Mechanism and to propose recommendations on how it could more effectively promote respect for the Declaration, including by better assisting Member States to monitor, evaluate and improve the achievement of the ends of the Declaration, in line with paragraph 28 of General Assembly resolution 69/2. The Council also requested OHCHR to prepare a report on the workshop, including the recommendations made, to be submitted to the Council at its thirty-second session. The present report was prepared in response to that request (annex I contains a non-exhaustive list of proposals put forward at the workshop).

4. The expert workshop was held in Geneva on 4 and 5 April 2016 and brought together approximately 100 participants, including States, indigenous peoples and other stakeholders (see annex II). The following 10 experts on indigenous peoples' rights were invited to make presentations during the workshop: Alexey Tsykarev, Chair of the Expert Mechanism; Tracey Whare, Trustee of the Aotearoa Indigenous Rights Trust, New Zealand; Alexandra Xanthaki, Reader in Law and Director of Research, Brunel University London, United Kingdom of Great Britain and Northern Ireland; Victoria Tauli-Corpuz, Special Rapporteur on the rights of indigenous peoples; Megan Davis, Chair of the Permanent Forum on Indigenous Issues; Patrick Thornberry, Professor of International Law at Keele University, United Kingdom, and former member of the Committee on the Elimination of Racial Discrimination; Mattias Ahren, Professor at the Faculty of Law, Arctic University of Norway; Otilia Lux de Coti, Director of the International Indigenous Women's Forum and former member of the Permanent Forum on Indigenous Issues; Albert Barume, member of the Expert Mechanism; and Chief Wilton Littlechild, former Chair and current member of the Expert Mechanism.

5. The workshop was moderated by James Anaya, Professor of Human Rights Law and Policy at the University of Arizona, United States of America. The programme of the workshop consisted of four sessions focusing on the following themes: strengths and limitations of the current mandate; strengthening interaction with other indigenous-specific mandates and the United Nations human rights system in general; exploring new areas of

work; and modalities and methods of work. The workshop ended with a discussion and closing comments by the moderator.

6. The present report is structured according to the programme of the workshop and is therefore divided into four substantive sections, each of which focuses on one of the four themes set out above.

7. OHCHR would like to thank the representatives of States, indigenous peoples and other stakeholders who participated in the workshop, as well as the experts and the moderator. Moreover, it would like to thank all those who provided written contributions prior to the workshop (see annex III). The full text of each response to the questionnaire can be found on the web page of the Expert Mechanism dedicated to the review of the mandate.[1]

II. Opening of the workshop

8. In her opening remarks, the Director of the Division of Thematic Engagement, Special Procedures and Right to Development of OHCHR stressed the importance of the mandate review process and of using the Declaration as a key reference for the exercise. She underlined that any change to the mandate should aim to ensure that the Expert Mechanism could make a concrete contribution in terms of closing the gap between the standards enshrined in the Declaration and the reality on the ground. The Director emphasized that achieving the full and effective participation of indigenous peoples should continue to be one of the guiding principles of the mandate review process and that the Expert Mechanism must continue to be wide open to indigenous peoples' representatives.

9. In his opening remarks, Mr. Anaya, who served as the workshop's moderator, said that the Expert Mechanism had played a key role in making the contents of the Declaration operational. He also said that the Expert Mechanism had to be reassessed in order to reflect the changes that had occurred since it had been established in 2007, adding that the challenges, gaps and lessons learned had to be taken into account. He encouraged the participants to engage in a dialogue on how the Expert Mechanism could promote the respectful implementation of the Declaration.

III. Strengths and limitations of the current mandate

10. Several participants highlighted, as a strength of the current mandate, the unique position of the Expert Mechanism as the only thematic advisory body of the Human Rights Council to provide advice on indigenous peoples' rights. They also highlighted that it was possible for indigenous peoples and other stakeholders to access the Expert Mechanism and participate in its annual sessions, and that such participation was facilitated, inter alia, by the flexible accreditation rules and the support provided by the United Nations Voluntary Fund for Indigenous Peoples. The annual sessions were seen as an important opportunity for dialogue between indigenous peoples and States. Several participants found the expert advice provided by the Expert Mechanism of particular value, noting that the studies it carried out contained concrete conclusions on the content of international standards, including the Declaration, as well as suggestions for their implementation.

11. Some participants highlighted the multinational approach taken in the thematic studies and the collaboration with academic institutions. Some participants said that the

[1] See www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/Reviewofthemandate.aspx.

studies had helped to clarify the scope and content of the Declaration and had had a positive impact on the work of the Human Rights Council on indigenous peoples. It was noted that the studies offered the opportunity to report on how indigenous peoples understood various concepts related to their rights and to record how the provisions of the Declaration were supported by other instruments of international law, which in turn strengthened the interpretation and correct implementation of the Declaration.

12. As regards the limitations of the Expert Mechanism, a number of participants argued that its mandate was not as strong as that of the other two United Nations indigenous-specific mechanisms, and that there was a clear need to bolster it. It was also noted that the annual sessions attracted fewer participants than the sessions of the Permanent Forum on Indigenous Issues and that there was a need for an increase in States' contributions to the annual questionnaires and studies.

13. Some participants stated that the focus on thematic studies was not sufficient and that the Expert Mechanism should enhance its focus on the implementation of rights, including the Declaration, at the country level. It was also mentioned that a clear reference to the Declaration was missing from the Expert Mechanism's mandate. Some delegates said that, other than at the sessions of the Expert Mechanism and of the Human Rights Council, there was very limited focus on facilitating dialogue between States and indigenous peoples in the current work of the Expert Mechanism. Concern was expressed about limited coordination between the Expert Mechanism and other United Nations mechanisms.

14. One participant expressed concern about the fact that, under the current mandate, the Expert Mechanism could not address the serious situations faced by indigenous peoples, including gross human rights violations. In relation to the thematic studies, several participants said that it was difficult to determine their impact at the country level because there was no follow-up to the studies. The fact that the themes of the studies were chosen by the Human Rights Council, not by the Expert Mechanism, was highlighted as a limitation by several State and indigenous peoples' representatives.

15. Many State and indigenous peoples' representatives and several members of the Expert Mechanism highlighted that the Expert Mechanism lacked financial and human resources and had only limited secretariat staff support. The absence of funding for holding intersessional meetings, for participating in relevant international meetings and processes on issues such as climate change and the Sustainable Development Goals and for translating draft studies into all the official languages of the United Nations so that they could be considered by the Expert Mechanism at its sessions was also mentioned.

IV. Strengthening interaction with other indigenous-specific mandates and the United Nations human rights system in general

16. Several State and indigenous peoples' representatives highlighted the importance of interaction between the three indigenous-specific mandates, namely the Expert Mechanism, the Permanent Forum on Indigenous Issues and the Special Rapporteur on the rights of indigenous peoples. It was highlighted that coordination was already taking place, but there were also several calls for increasing cooperation with a view to avoiding unnecessary duplication on thematic and other work and maximizing the combined impact of the mandates. One delegate expressed understanding for a certain degree of overlap between the three mechanisms while at the same time underlining the importance of having complementarity. Several participants highlighted that the current level of overlap between the three mandates was insignificant and could be positive in the right circumstances considering the serious human rights situation of indigenous peoples.

17. Participants made specific suggestions for ways to enhance coordination, for example by issuing joint statements, coordinating studies and cooperating through a multi-year workplan. Cooperation with the Permanent Forum on Indigenous Issues was highlighted, but it was also noted that human rights was just one of six thematic issues that the Permanent Forum was mandated to address.

18. The relationship between the Special Rapporteur and the Expert Mechanism was the subject of much discussion. The Special Rapporteur underlined the many human rights challenges facing indigenous peoples and stressed that she was overwhelmed by the dire situation they faced and the many requests she had received. She suggested broadening the mandate of the Expert Mechanism to include country-specific situations and encouraged the Expert Mechanism to develop a database of recommendations on indigenous peoples from other United Nations mechanisms (such as the special procedures, the universal periodic review and the treaty bodies).

19. Several State and indigenous peoples' representatives supported the idea of enhancing cooperation between the Expert Mechanism and the Special Rapporteur. One State representative suggested developing a referral system so that both mechanisms could refer specific issues to each other, including on urgent situations, and follow up and report on the achievement of the ends of the Declaration. That proposal was supported by several State and indigenous peoples' representatives. One participant suggested formalizing coordination with the Special Rapporteur prior to her country visits and the Special Rapporteur proposed that the Expert Mechanism play a role in the follow-up to recommendations.

20. One State representative proposed merging the mandate of the Special Rapporteur with that of the Expert Mechanism, to enhance and elevate the role of the body and avoid duplication. The proposal included expanding the Expert Mechanism's mandate, so that the Mechanism could assist States in addressing country situations and provide expert advice, and having the Special Rapporteur chair the Expert Mechanism. A number of participants shared the overall goal of enhancing the impact and status of the Expert Mechanism but did not agree that merging the two mandates would be the way to reach that goal. In particular, concerns were expressed about the risk that such a merger might undermine the scope of action and current mandates of the Expert Mechanism and the Special Rapporteur. One participant suggested that other ways of strengthening the institutional links between the two mandates could be explored, including the possibility of giving the Special Rapporteur a seat in the Expert Mechanism.

21. One participant suggested expanding the scope of interaction to other special procedure mandate holders involved in the protection and promotion of indigenous peoples' rights, including the Special Rapporteur on the human right to safe drinking water and sanitation, the Special Rapporteur on the right to education, the Special Rapporteur on the right to food, the Special Rapporteur on the question of human rights and extreme poverty, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes.

22. A number of proposals were made on strengthening interaction with other mechanisms of the Human Rights Council, including the Working Group on the issue of human rights and transnational corporations and other business enterprises, which was highlighted by several State and indigenous peoples' representatives. One delegate suggested establishing closer links with the open-ended intergovernmental working group to draft a United Nations declaration on the rights of peasants and other people working in rural areas. Other suggestions included strengthening interaction with the President and Bureau of the Council through annual meetings, as well as with the regional groups of the Council, and participating in the annual meeting of special procedures mandate holders.

23. Among the proposals on how to strengthen interaction with the United Nations human rights system in general, several State and indigenous peoples' representatives mentioned the Expert Mechanism's role in following-up on selected recommendations from the human rights system, including the universal periodic review and the treaty bodies.

24. Several State and indigenous peoples' representatives called for the Expert Mechanism to strengthen its interaction with other mechanisms and organizations, including specialized agencies such as the International Labour Organization, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the World Intellectual Property Organization and mechanisms dealing with climate change and biodiversity. One delegate suggested enhancing interaction with multilateral processes, including those related to the World Bank safeguard policies and the Sustainable Development Goals.

25. One participant suggested institutionalizing meetings with the Under-Secretary-General appointed by the Secretary-General as the senior official of the United Nations system responsible for coordinating follow-up action for the World Conference on Indigenous Peoples. He also called for the permanent participation of the Expert Mechanism in the work of the Inter-Agency Support Group on Indigenous Issues and suggested biennial reporting to the General Assembly. One delegate cautioned against formalizing participation in and interaction with other mechanisms and working groups.

V. Exploring new areas of work

26. Several State and indigenous peoples' representatives called for the Expert Mechanism to have a stronger and clearer mandate, one that explicitly had the Declaration as its guiding normative framework. One participant said that the Expert Mechanism could focus on interpreting specific provisions of the Declaration and on facilitating their implementation, and called for the mandate to be flexible and not too constraining.

27. Some participants said that the core function of the Expert Mechanism should be to carry out an oversight function and provide follow-up to address the implementation gap of the Declaration, to assist States with implementation and to address human rights violations against indigenous peoples. Two participants cautioned against overstretching the Expert Mechanism and called for a focus on its core mandate and functions.

28. Participants called upon States to provide greater support to the Expert Mechanism and underlined the importance of States attending the annual session. One delegate said that it was possible to improve the Expert Mechanism without changing the mandate, by for example enhancing the participation of States.

29. It was also suggested that, in order to promote the implementation of the Declaration, the members of the Expert Mechanism should be able to make authoritative interpretations of its provisions, including in general annual reports. One delegate said that the Expert Mechanism should be able to make recommendations and issue general comments on the Declaration and gather information from all sources, including the treaty bodies, the universal periodic review and the Permanent Forum on Indigenous Issues. Another delegate said that the Expert Mechanism should engage with States and indigenous peoples at the country level and give pointed recommendations and advice in respect of actual cases of concern, without taking on tasks similar to those of the treaty bodies.

30. Some participants said that the Expert Mechanism should be able to make substantial recommendations. One participant underlined that the Expert Mechanism should not develop the same kind of authority as a complaints mechanism or a court. Another

participant asked whether it would be possible for the Expert Mechanism to prepare draft resolutions that could be presented to the Human Rights Council for consideration.

31. Several State and indigenous peoples' representatives called for the Expert Mechanism to have greater independence and autonomy from the Human Rights Council, notably with regard to the establishment of priorities and the determination of the themes of its studies and research. One delegate said that the Council should still be allowed to request the Expert Mechanism for advice.

32. Several State representatives were supportive of the thematic studies and expert advice of the Expert Mechanism. Two delegates emphasized that the studies should be more in line with the Declaration by, for example, focusing on how to achieve implementation of certain articles of the Declaration. Several State representatives encouraged the Expert Mechanism to pay more attention to the collection and dissemination by States of best practices and lessons learned. One participant said that studies could be the basis for making interpretations of the Declaration. Not all participants agreed on the need to pursue studies in the future and one participant suggested reducing or even discontinuing the preparation of thematic studies, referring to their limited impact at the country level and considering the possible increase in workload of the Expert Mechanism stemming from the review of its mandate.

33. Several participants spoke of the importance of following up on studies and of providing expert advice through different means, including by offering specific support to countries and connecting with relevant national authorities.

34. Several participants suggested preparing an annual global overview or report on the state of indigenous peoples and identifying good practices and implementation strategies to achieve the ends of the Declaration, based on voluntary contributions from States. Some delegates called for the inclusion of a section on best practices in a possible global report and a focus on multi-country contexts.

35. One participant suggested preparing a report on progress made in the implementation of certain rights, rather than a global report on the situation of indigenous peoples, since civil society organizations were already producing that type of report. One delegate called for the preparation of advisory reports addressed to interested States, while two participants highlighted the importance of preparing reports on the implementation of the Declaration at the national and regional levels and of having country reports.

36. Several State and indigenous peoples' representatives called for the Expert Mechanism to be able to facilitate dialogue between States and indigenous peoples. One participant said that none of the three mechanisms were explicitly mandated to facilitate dialogue at the country level and suggested that the dialogue could serve as a channel to infuse the Declaration and other relevant human rights standards into legal and policy frameworks at the country level. Another participant said that the Expert Mechanism should have a role to play in face-to-face discussions between States and indigenous peoples, particularly on issues related to the impact of extractive industries, violence against indigenous women, health and cultural rights, the implementation of treaties and agreements and issues related to land rights and resources. One delegate called for continued dialogue between States and indigenous peoples during the sessions of the Expert Mechanism.

37. The interaction between States and the Expert Mechanism was also discussed. Several State representatives saw a role for the Expert Mechanism in giving advice, technical assistance and other support to States upon request, including in relation to following up on the recommendations of other indigenous-specific mandates and the United Nations human rights system and by helping States implement the recommendations made by the treaty bodies. One participant suggested raising awareness of indigenous peoples'

rights among the staff of permanent missions to the United Nations in Geneva and New York.

38. Several participants called for the Expert Mechanism to be able to address country-specific situations, including through interaction with ministries dealing with indigenous peoples' rights at the country level and with national and regional human rights institutions and specialized bodies. One participant suggested that the Expert Mechanism could raise awareness of and promote the Declaration at the country level in cooperation with national human rights institutions as key partners, to address the capacity gap on indigenous peoples' rights. He also proposed that a standing item on dialogue with national human rights institutions be included in the agenda of the Expert Mechanism's sessions.

39. Two participants suggested holding regional forums on indigenous peoples' rights, with members of the Expert Mechanism participating as resource persons in joint training and capacity-building programmes, which could lead to the gradual integration of the Declaration into relevant regional human rights mechanisms. One participant suggested having regional focal points within the Expert Mechanism to ensure better implementation of rights at the regional level.

40. The Expert Mechanism was also encouraged to provide technical assistance and support to indigenous peoples in effectively accessing human rights mechanisms, including the special procedure mandate holders, the treaty bodies and the universal periodic review, by interacting with the indigenous members of national parliaments and by providing training to indigenous peoples on their rights. The Expert Mechanism was also encouraged to provide technical support to the private sector.

41. A discussion was held on whether the Expert Mechanism should be able to conduct country visits. One delegate emphasized the importance for the Expert Mechanism to be able to do so, in particular if a referral system with the Special Rapporteur were to be established, while others stressed that country visits were best undertaken by the Special Rapporteur and that it was possible to provide technical assistance and facilitate dialogue without visiting a country. One participant said that countries should only be visited in response to a request, while other participants said that country visits carried out by the Expert Mechanism would differ from those of the Special Rapporteur, and suggested using the term "country-specific activity". They also said that it would be difficult to facilitate dialogue, build capacity, provide technical assistance and collect best practices from Geneva.

42. Several participants encouraged the Expert Mechanism to look into specific issues, including the possibility of setting up a working group on the rights of indigenous persons with disabilities, focusing on indigenous peoples divided by borders and on business and human rights and facilitating dialogue between States and indigenous peoples on the issue of the international repatriation of ceremonial objects.

VI. Modalities and methods of work

43. Participants discussed the modalities and methods of work of the Expert Mechanism, as well as the Mechanism's composition. Several State representatives said that it was important for the experts to be independent. One delegate said that the qualifications of the experts should depend on the new mandate of the Expert Mechanism, while several State and indigenous peoples' representatives underlined that the experts should have knowledge of international law and human rights, as well as of indigenous traditional legal systems.

44. One delegate said that it was not necessary for the experts to have an indigenous background as long as they had the required expertise, while one participant spoke of the importance of having experts of indigenous origin and of achieving a balance in terms of gender. Several State representatives also mentioned the importance of having equitable geographical representation among the experts. One participant said that the qualifications of the experts should be set out in the mandate.

45. Several State representatives said that the qualifications and competence of the experts were more important than their number. Two delegates supported the idea of having seven members, one from each of the seven indigenous sociocultural regions of the world, to give broad representation to the world's indigenous peoples,[2] while one delegate hesitated to expand the current number of members. One delegate expressed satisfaction with the current number of members while one participant suggested increasing the number of experts taking into account the number of indigenous peoples in each region.

46. Two participants called for a more transparent process for nominating and selecting experts, while another participant suggested that members of the Expert Mechanism should be nominated by both States and indigenous peoples.

47. Several participants said that the experts should determine their own methods of work, making sure that they are in line with any changes made to the mandate. One participant stressed that the Expert Mechanism should not adopt a method of work that was similar to a complaints procedure. It was suggested that the sessions of the Expert Mechanism could include both public and private meetings, and a member of the Expert Mechanism suggested that the private meetings could focus on dialogue with States.[3] One participant advocated keeping the open meetings, as they provided indigenous peoples and States with the opportunity to interact directly.

48. One participant said that the number of working days should be based on the workload and eventual mandate of the Expert Mechanism. One delegate found the current number of working days sufficient, while another delegate called for the issue to be revisited. One participant said that closer interaction between the Expert Mechanism and the Special Rapporteur would entail more working days. Another participant mentioned the possibility of having three annual working weeks with one week for the public session, one for closed meetings and one for intersessional meetings.

49. The use of information and communications technologies was also mentioned. Several participants highlighted the importance of webcasting the annual session of the Expert Mechanism to make it more accessible to indigenous peoples who were not able to attend the session, while one participant said that some indigenous peoples still did not have access to the Internet. Videoconferencing was mentioned as a way for members of the Expert Mechanism to maintain intersessional communication.[4] One participant said that face-to-face meetings were better when preparing studies while another participant encouraged making better use of the OHCHR website and the country overviews available there.

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[2] The members of the Permanent Forum on Indigenous Issues that are nominated by indigenous organizations are appointed by the President of the Economic and Social Council and represent seven sociocultural regions determined to give broad representation to the world's indigenous peoples. The regions are: Africa; Asia; Central and South America and the Caribbean; the Arctic; Central and Eastern Europe, the Russian Federation, Central Asia and Transcaucasia; North America; and the Pacific. One additional seat rotates among the first three regions listed above.

[3] The current practice is for the Expert Mechanism to have one or two half-day closed meetings during their annual session in order to finalize its reports and proposals to the Human Rights Council.

[4] Currently, the members of the Expert Mechanism hold monthly videoconferences.

50. The issue of financial and human resources for the Expert Mechanism was mentioned by most State and indigenous peoples' representatives and other stakeholders. Several State and indigenous peoples' representatives called for more funding for the Expert Mechanism, including for secretariat support. Several State and indigenous peoples' representatives said that the issue of resources should not be a deterrent to putting forward suggestions for a review of the Expert Mechanism.

51. Several State and indigenous peoples' representatives called for ensuring continued access by indigenous peoples to the sessions of the Expert Mechanism and one delegate called for indigenous peoples to continue to be involved in the development of the modalities of the Expert Mechanism. Several participants encouraged States to contribute to the United Nations Voluntary Fund for Indigenous Peoples, including States that had not yet done so. One indigenous peoples' representative mentioned the importance of having indigenous fellows at OHCHR to assist with the preparations of the annual session of the Expert Mechanism.

52. Two participants called for the special status of indigenous representatives, who constitute nations and peoples rather than civil society, to be respected and recognized.

VII. Concluding session

53. Several participants noted the constructive nature of the dialogue held during the two-day workshop and pointed to specific issues that had garnered broad support, including: the need to expand the mandate of the Expert Mechanism so that it could better engage States and indigenous peoples in advancing implementation of the Declaration, including by addressing country-specific situations in some way, and the need to ensure adequate financial resources for the Expert Mechanism.

54. In his concluding remarks, the moderator said that, since the adoption of the Declaration, Member States had joined indigenous peoples in expressing commitment to the principles of the Declaration. He underlined that the Declaration continued to remain an ideal and an aspiration, owing to the gap that existed between the principles enshrined in it and the reality on the ground. The moderator pointed out that, as expressed by many participants, there was a general understanding that the existing system of rights protection was not sufficiently robust to ensure the full and universal realization of the Declaration, and that enhancing the mandate of the Expert Mechanism was only a starting point.

Annex I

Non-exhaustive list of proposals put forward at the workshop

- The mandate of the Expert Mechanism should explicitly be based on the United Nations Declaration on the Rights of Indigenous Peoples, which should also be the Expert Mechanism's normative framework.
- The Expert Mechanism should have a mandate to assist States with the implementation of the Declaration.
- The Expert Mechanism should be able to make authoritative interpretations of the provisions of the Declaration.
- The Expert Mechanism should gather information from all sources, including the treaty bodies, the universal periodic review and the Permanent Forum on Indigenous Issues.
- The Expert Mechanism should have greater independence and autonomy from the Human Rights Council, including in terms of selecting the themes of its studies.
- The studies of the Expert Mechanism should be linked to specific articles of the Declaration.
- The Expert Mechanism should pay more attention to the collection and dissemination by States of best practices and lessons learned.
- The Expert Mechanism should follow up on studies and expert advice through different means.
- The Expert Mechanism should prepare an annual global report on developments regarding the implementation of the Declaration.
- The Expert Mechanism should play a role in facilitating dialogue between States and indigenous peoples.
- The Expert Mechanism should give advice and technical assistance to States upon request, including in relation to following up on the recommendations of other indigenous-specific mandates and the United Nations human rights system.
- The Expert Mechanism should be able to address country-specific situations.
- The Expert Mechanism should provide technical assistance to indigenous peoples and the private sector.
- There should be enhanced cooperation and interaction between the Expert Mechanism and the Permanent Forum on Indigenous Issues, the Special Rapporteur on the rights of indigenous peoples and other special procedures mandate holders involved in the protection and promotion of indigenous peoples' rights. Proposals in this regard ranged from developing a referral system between the Special Rapporteur and the Expert Mechanism to merging the two mandates.
- Cooperation and interaction should be enhanced between the Expert Mechanism and other mechanisms of the Human Rights Council, including the Working Group on the issue of human rights and transnational corporations and other business enterprises and the President and Bureau of the Council.

- Cooperation and interaction should be enhanced between the Expert Mechanism and the United Nations human rights system in general, including the treaty bodies and the universal periodic review.
- Cooperation and interaction should be enhanced between the Expert Mechanism and specialized agencies, mechanisms, organizations and multilateral processes beyond the United Nations human rights system.
- The members of the Expert Mechanism should be independent and have qualifications reflecting the resulting mandate. There should be balance in terms of gender and equitable geographical representation.
- The number of experts should be such as to ensure that the work of the Expert Mechanism is carried out efficiently, with one possibility being that one expert comes from each of the seven indigenous sociocultural regions.
- The experts should decide their own working methods, making sure that they are in line with any changes made to the mandate.
- The Expert Mechanism should use information and communications technologies, including webcasting.
- The Expert Mechanism should have more funding, including for secretariat support.
- Easy access by indigenous peoples to the sessions of the Expert Mechanism should continue to be ensured.
- States should consider contributing to the United Nations Voluntary Fund for Indigenous Peoples.

Annex II

List of participants

States Members of the United Nations represented by observers

Algeria, Australia, Bolivia (Plurinational State of), Canada, Chile, Czech Republic, Denmark, Ecuador, Estonia, Finland, Germany, Guatemala, Hungary, Indonesia, Japan, Latvia, Mexico, Namibia, Nicaragua, Norway, Peru, Russian Federation, South Africa, Spain, Sweden, Thailand, United States of America, Venezuela (Bolivarian Republic of).

United Nations mandate holders, mechanisms, bodies, specialized agencies, funds and programmes represented by observers

Committee on the Elimination of Racial Discrimination, United Nations Voluntary Fund for Indigenous Peoples.

Intergovernmental organizations represented by observers

European Union.

Invited experts on indigenous issues

James Anaya, Professor of Human Rights Law and Policy, University of Arizona, United States; Alexey Tsykarev, Chair of the Expert Mechanism on the Rights of Indigenous Peoples; Tracey Whare, Trustee of the Aotearoa Indigenous Rights Trust, New Zealand; Alexandra Xanthaki, Reader in Law and Director of Research, Brunel University London, United Kingdom of Great Britain and Northern Ireland; Victoria Tauli-Corpuz, Special Rapporteur on the rights of indigenous peoples; Megan Davis, Chair of the Permanent Forum on Indigenous Issues; Patrick Thornberry, Professor of International Law at Keele University, United Kingdom, and former member of the Committee on the Elimination of Racial Discrimination; Mattias Ahren, Professor at the Faculty of Law, Arctic University of Norway; Otilia Lux de Coti, Director of the International Indigenous Women's Forum and former member of the Permanent Forum on Indigenous Issues; Albert Barume, member of the Expert Mechanism on the Rights of Indigenous Peoples; Chief Wilton Littlechild, former Chair and current member of the Expert Mechanism on the Rights of Indigenous Peoples.

Institutions represented by academics and experts on indigenous issues

Columbia University, University of Arizona, University of Manitoba, University of South Australia.

Indigenous nations, peoples and organizations, as well as non-governmental organizations

Aboriginal Rights Coalition; Agencia Internacional de Prensa Indígena; Asia Indigenous Peoples Pact; Assemblée des Arméniens d'Arménie occidentale; Assembly of First Nations; Pan-Africa Association; Centre for Support of Indigenous Peoples of the North; Zagros Human Rights Centre; Citizen Potawatomi Nation; Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos; Commission africaine des promoteurs de la santé et des droits de l'homme; Consejo Indio de Sud America; Consejo Regional Indígena del Tolima; Culture of Afro-Indigenous Solidarity; Friends World Committee for Consultation; Foundation for Aboriginal and Islander Research Action; Fundación Paso a

Peace; Geneva for Human Rights; Grand Council of the Crees; Haudenosaunee External Relations Committee; Indian Law Resource Centre; Indigenous Peoples and Nations Coalition; Indigenous Peoples' Centre for Documentation, Research and Information; Indigenous World Association; International Indian Treaty Council; International Union for Conservation of Nature; Inuit Circumpolar Council; Just Planet; Kapaeeng Foundation; Maloca Internationale; National Congress of American Indians; Native American Rights Fund; Onion Lake Cree Nation; Sami Parliament of Norway; Tamaynut; Tin Hinane; Ti Tlanizke; Unissons-nous pour la promotion des Batwa; Voices for Peace; World Barua Organization; Youth Movement of Mordovian People.

Annex III

List of States, indigenous peoples and other stakeholders that provided responses to the questionnaire

States that provided responses

Argentina, Australia, Canada, Chile, Colombia, Democratic Republic of the Congo, Denmark (including Greenland), Finland, Guatemala, Norway, Russian Federation, United States of America, Venezuela (Bolivarian Republic of).

Indigenous peoples and other stakeholders that provided responses

Arctic indigenous peoples organizations and institutions, Bubi People of Bioko Island, Campaign for the Indigenous Protocol, Citizen Potawatomi Nation, Comisión Jurídica para el Autodesarrollo de los Pueblos Originarios Andinos, World Amazigh Congress, Indian Law Resource Centre, Indigenous World Association, International Indian Treaty Council, Lumad Mindanaw Peoples Federation, National Congress of American Indians, Native American Rights Fund, Nepal Laborious Society Centre, Shiprock Community Development Corporation, Navajo Nation, Tamaynut, Human Rights Commission of New Zealand, Center for World Indigenous Studies, the members of the Expert Mechanism on the Rights of Indigenous Peoples.

Various other documents were made available, including a comparative list of the three indigenous-specific mandates and the report on the open-ended meeting of indigenous peoples on the follow-up to the World Conference on Indigenous Peoples.